

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13310 of 2004

Between:

M.A. Aziz, S/o. Multhan Sab,
Khatana Village, Bidhar Taluk and District,
Karnataka State.

..... PETITIONER

AND

1 The Prohibition & Excise Inspector, Narayankhed, Medak

District.

2 The Deputy Commissioner of Prohibition & Excise, Nizamabad

division, Nizamabad.

3 The Commissioner of Prohibition & Excise, Nampally.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction mostly one which is in the nature of a Writ of MANDAMUS declaring the proceedings C.R.No.B7/1238/96 Dated 16-11-1999 of the 2nd Respondent and the consequential confiscation of lorry bearing No. MYI 3224 belonging to the petitioner by the 1st Respondent on 2-7-2004 as illegal, irregular, arbitrary, unjustified, unconstitutional and unsustainable and set aside the same holding that the lorry bearing No. MYI 3224 is not liable for confiscation and pass such other order or orders as the Court may deem fit in the circumstances of the case.

Counsel for the Petitioner:MR.P.VEERA REDDY

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following O R D E R:

The petitioner claims to be the owner of lorry bearing No.MYI 3224. The said vehicle was seized by the Prohibition and Excise Sub-Inspector, District Task Force, Medak, on 16-06-1996 on an allegation that 41 bottles of Indian made liquor was illegally being transported in the said vehicle. It appears that the petitioner obtained interim custody of the vehicle by virtue of an order of this Court in a writ petition filed by him and he has been plying the same. Subsequently, by an order dated 16-11-1999, the Deputy Commissioner of Prohibition and Excise, Nizamabad-the second respondent herein ordered confiscation of the vehicle under Section 13(2) of the Andhra Pradesh Prohibition and Excise Act, 1995. The petitioner states that he was not aware of the said order as no notice was served on him. It is only on 02-07-2004 when the Prohibition and Excise Inspector, Narayankhed, Medak District-the first respondent herein stopped and took away the lorry for confiscation, the petitioner came to know about that. Petitioner further states that immediately thereafter on 17-07-2004 he filed an appeal before the Commissioner of Prohibition and Excise, Hyderabad-the third respondent herein challenging the order of confiscation. The said appeal is admittedly pending before the third respondent. The grievance of the petitioner is that though he moved an application for interim custody of the vehicle, the third respondent had not considered the same so far, hence, this writ petition.

Since admittedly, the appeal is pending before the third respondent, I am not inclined to express any opinion on merits of the case, instead I deem it appropriate to dispose of the writ petition with a direction to the third respondent to consider the interim application filed by the petitioner in the appeal filed by him against the order of confiscation dated 16-11-1999 and to pass appropriate orders, in accordance with law, as expeditiously as possible, preferably, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of with the above directions. No costs.

29-07-2004

Note:Furnish C.C by tomorrow

b/o

vrn

To

1 The Prohibition & Excise Inspector, Narayankhed, Medak

District.

2 The Deputy Commissioner of Prohibition & Excise, Nizamabad

division, Nizamabad.

3 The Commissioner of Prohibition & Excise, Nampally.

4 Two C.Cs to the Government Pleader for Prohibition & Excise,

High Court Buildings, A.P., Hyderabad (OUT)

5 Two C.D copies.